

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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ALLEN HAYNES,

Plaintiff,

09CV4382 (ENV) (ALC)

REPORT AND
RECOMMENDATION

v.

OUTSTANDING TRANSP., et al.,

Defendants.

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CARTER, United States Magistrate Judge:

Review of the record in the above-referenced action reveals that *pro se* plaintiff Allen Haynes (“Haynes”) failed to attend his deposition as well as several status conferences. Defendants’ attempts to ensure his receipt of filings have been largely unsuccessful, since he reported a change of address but never provided a new one.

On September 16, 2010, I sent an order directing Haynes’ appearance on September 24, 2010 (the “Order”) to his address of record via Federal Express. The Order was delivered (however it was left by Federal Express without a signature) and he did not appear. I then, on October 4, 2010, issued an order to show cause why the case should not be dismissed for failure to prosecute, which was also sent via Federal Express to his address. It, too, was delivered (and, in this instance, signed for by “A. Haynes” on October 7, 2010), but again he failed to appear for the conference set therein or file any documentation in support of the maintenance of this action. Accordingly, I recommend dismissing the action pursuant to Federal Rule of Civil Procedure 41(b), for failure to prosecute.

Pursuant to 28 U.S.C. § 636(b)(1) and Rules 6 and 72 of the Federal Rules of Civil Procedure, the parties shall have until October 29, 2010 to file written objections to the Report and Recommendation. A copy of the within will be transmitted to Haynes by Federal Express overnight service.

Failure to file timely objections will preclude appellate review of any order of judgment that will be entered.

DATED: October 14, 2010
Brooklyn, New York

/s

Andrew L. Carter, U.S.M.J.